UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/763,868	01/22/2004	Edward Eytchison	Sony-05300	8511

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *14 January 2008*.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-26* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-26* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *22 January 2004* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

DETAILED ACTION

1.   This action is responsive to communication filed 01/14/2008. Claims 1-26 are pending.

Applicant's arguments filed 01/14/2008 have been fully considered but they are not persuasive.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

2.   **Claims 1-26** are rejected under 35 U.S.C. 103(a) as being unpatentable over Armstrong

et al. (US Publication No 2002/0073172 A1, hereinafter Armstrong) in view of Janik et al. (U.S.

Publication No. 2002/0013852 A1, hereinafter Janik).

As per claim 1, Armstrong discloses the invention substantially as claimed. **Armstrong**

teaches a method comprising: storing an initial portion of the content item in a temporary storage

cache **(Abstract, paragraphs [0018], [0030], [0033])**; receiving a request for the content item

(Abstract, paragraphs [0018], [0030], [0033]); streaming the initial portion of the content item

from the temporary storage cache to a stream synchronizer in response to the request **(Abstract,**

paragraphs [0018], [0030], [0033]); producing a resultant stream **(where the resultant stream**

is the remaining portion) using the initial portion of the content item; and seamlessly

transitioning the resultant stream from the initial portion of the content item to an entire segment of the content item **(paragraphs, [0033], [0046], and [0037])**.

Although the Background of Armstrong specifically states that a "user ideally selects desired content" in paragraph [0006], Armstrong does not explicitly identifying a preference and selecting a content item based on the preference;

However, Janik teaches identifying a preference **(paragraphs [0080] and [0082])**; selecting a content item based on the preference **(paragraphs [0080] and [0082])**;

Accordingly, it would have been obvious to one of ordinary skill in the networking art at the time the invention was made to have incorporate Armstrongs's teachings to the teachings of Janik, for the purpose of providing a means to allow the user to receive specific requests based on their preference and furthermore for returning to a user a desired stream to "meet user expectations" **(Armstrong: paragraph [0006])**.

As per claim 2, Armstrong-Janik teaches a method wherein the preference is associated with a user **(Janik: paragraphs [0080] and [0082])**.

As per claim 3, Armstrong-Janik teaches a method wherein the preference includes a playlist **(Armstrong: paragraph [0044])**.

As per claim 4, Armstrong-Janik teaches a method wherein the resultant stream mirrors the entire segment of the content **(Armstrong: paragraph [0031)**.

As per claim 5 Armstrong-Janik teaches a method further comprising identifying a user associated with the preference **(Janik: paragraphs [0080] and [0082])**.

As per claim 6, Armstrong-Janik teaches a method wherein the content includes one of a document, an image, audio data, and video data (**Armstrong: paragraph [0018], lines 1-5 and Janik: paragraph [0009]**).

As per claim 7, Armstrong-Janik teaches a method further comprising transmitting the entire segment of the content to a stream buffer in response to the request (**Armstrong: paragraph [0040]**).

As per claim 8, Armstrong-Janik teaches a method wherein the transmitting the entire segment of the content occurs simultaneously with streaming the initial portion (**Armstrong: paragraphs [0031], [0032], and [0040]**).

As per claim 9, Armstrong-Janik teaches a method wherein the seamlessly transitioning occurs in real-time (**Armstrong: paragraph [0027], [0031], [0032]**).

As per claim 10, Armstrong-Janik teaches a method according to claim 1, further comprising presenting the resultant stream beginning with the initial portion and subsequently followed by a portion of the entire segment (**Armstrong: paragraph [0046], lines 7-12**).

As per claim 11, Armstrong-Janik teaches a system comprising means for identifying a preference (**Janik: paragraphs [0080] and [0082]**); means for selecting a content item based on the preference (**Janik: paragraphs [0080] and [0082]**); means for storing an initial portion of the content item in a temporary storage cache (**Armstrong: paragraphs [0018], [0030], [0033]**); means for receiving a request for the content item; means for streaming the initial portion of the content item from the temporary storage cache to a stream synchronizer in response to the request (**Armstrong: paragraphs [0018], [0030], [0033] [0037]**); means for producing a

resultant stream using the initial portion of the content item; and means for seamlessly

transitioning the resultant stream from the initial portion of the content item to an entire segment

of the content item **(paragraph [0037])**.

As per claim 12, claim 12 is substantially the same as claim 1 and thus rejected using

similar rationale. Furthermore, regarding simultaneously loading an entire segment of the

selected content item to the stream synchronizer while streaming the initial portion **(paragraph

[0031] and [0032])**

As per claims 13-17, the rejection for claims 1, 6, and 9 applies fully.

As per claim 18, Armstrong-Janik teaches a method further comprising displaying the

resultant stream **(Armstrong: paragraph [0023])**.

As per claim 19, claim 19 is substantially the same as claim 1, but in system form rather

than method form. Therefore, the rejection for claim 1 applies equally as well to claim 19.

As per claim 20, Armstrong-Janik teaches a system comprising a media server

configured for storing an entire segment of content **(Armstrong: paragraph [0042])**; a client

device configured for storing an initial portion of the content wherein the client device is

configured to display the content by streaming a resultant stream from the initial portion of the

content while simultaneously receiving the entire segment of the content and seamlessly

substituting the entire segment of the content for the initial portion **(Armstrong: paragraphs

[0044],[0046])**.

As per claim 21, Armstrong-Janik teaches a system wherein the client device is configured to store the initial portion of the content prior to a request for the content (Armstrong: paragraph [0073]).

As per claim 22, Armstrong-Janik teaches a system wherein the client device is configured to receive the entire segment subsequent to a request for the content (Armstrong: paragraph [0046]).

As per claim 23, system according to claim 20, wherein the client device further comprises a preference data module configured for storing information relating to the content (Janik:).

As per claims 24-26, the rejection for claims 1 and 6-7 applies fully.

Response to Arguments

A)   Armstrong does not teach storing an initial portion of the content item in a temporary storage cache. The information server 125 of Armstrong is not a temporary storage cache.

As to the above point A), Examiner respectfully disagrees. Armstrong specifically teaches as stated by the Abstract "storing an initial portion of each title on a primary storage..." Applicant's claim requires "storing an initial portion of the content item in a temporary storage cache," which is clearly taught by Armstrong. The interpretation that the Examiner has relied upon for "temporary storage cache" is defined by the process of storing to the primary storage as

described in Armstrong and not the information server 125. As temporary storage cache serve as

staging areas or buffers of the sort, Examiner notes the primary storage media as defined by

Armstrong's instant specification is a disk array (paragraph [0040]). A disk array is

appropriately defined by Wikipedia is a disk storage system which contains multiple disk drives.

It is differentiated from a disk enclosure, in that an array has *cache memory* and advanced

functionality, like RAID and virtualization. (see http://en.wikipedia.org/wiki/Disk_array).

Furthermore, Armstrong specification discloses the storing process to include storing the

information to respective buffers which serve as temporary storage cache **(paragraph [0040]).**

B)   Armstrong does not teach selecting and storing a content item based on an identified
preference.

        As to the above point B), Examiner respectfully disagrees. Examiner submits that in

response to Applicant's argument that the references fail to show certain features of applicant's

invention, it is noted that the features upon which applicant relies (i.e., selecting and storing a

content item based on an identified preference.) are not recited in the rejected claim(s).

Although the claims are interpreted in light of the specification, limitations from the specification

are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir.

1993). However, the Applicant's claim *does* recite similar language in claim 1 stating

"identifying a preference; selecting a content item based on the preference," which is rejected as

unpatentable over Armstrong in view of Janik. The last Office Action (filed 10/18/2007)

specifically states that this limitation is met inexplicitly in Armstrong (i.e. "user ideally selects

desired content") and explicitly in Janik where the reference teaches a user provides a content

preference by checking boxes beside content types that they wish to receive which in turn is

displayed back to the users.

C)   Janik does not teach prefetching content based on a preference corresponding to a user.

As to the above point C), Examiner respectfully disagrees. Examiner submits similar

response to arguments as stated for point B. Furthermore, Examiner notes that Janik teaches

prefetching a content based on a prefetch parameter and a display window, where the user is able

to select a content preference that filters the content based on the preference corresponding to the

user's and user selection.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time

policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

MONTHS of the mailing date of this final action and the advisory action is not mailed until after

the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the mailing

date of this final action.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner
should be directed to Joiya Cloud whose telephone number is 571-270-1146. The examiner
can normally be reached Monday to Friday from on 7:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor,
William Vaughn can be reached on 571-272-3922. The fax phone number for the
organization where this application or proceeding is assigned is 571-273-3922.

Information regarding the status of an application may be obtained from the Patent
Application Information Retrieval (PAIR) system. Status information for published
applications may be obtained from either Private PAIR or Public PAIR. Status information
for unpublished applications is available through Private PAIR only. For more information
about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access
to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197
(toll-free).

JMC

/William C. Vaughn, Jr./

Supervisory Patent Examiner, Art Unit 2144   April 26, 2008